

**DRAFT - Revised April 23, 1998**

## **Water Transfers Clearinghouse - Discussion Paper**

### **A. Introduction**

In its discussions so far, the BDAC Water Transfers Work Group has focused on two major policy issues: third party economic impacts and protection of source area groundwater resources.

The challenge for the Work Group and the CALFED Program is to address the stakeholder concerns about these issues in a way which is consistent with Program objectives and solution principles. One tool which is under consideration is the development of a process which would assist the local decision making agencies with analysis of the benefits and adverse impacts of transfers -- short term and long term, project specific and cumulative.

This process could take the form of an "information clearinghouse". It would not require or result in any change in existing regulatory authority or water rights law. The information clearinghouse function would not be regulatory in nature. It would provide expertise, resources, advice and recommendations on water transfers to local agencies and other interested parties, so that decisions could be made with all parties in possession of complete and accurate information.

At this point in the discussion, there appears to be agreement that the clearinghouse should not function as a market broker, by making information available to interested buyers and sellers about water transfer supply and demand, nor should the clearinghouse operate a water bank. In other words, the clearinghouse function should not include direct participation in water transfer transactions.

During the Work Group discussions, it was noted that many of the functions suggested for a clearinghouse are already being performed by the Department of Water Resources, the Bureau of Reclamation, or the local agencies involved in a particular transfer. Some stakeholders believe that these functions could be better performed by a "neutral party", rather than an agency which is involved in water transfer transactions as a buyer or seller, broker, or approving agency. Others believe that it would not be productive for a clearinghouse to duplicate existing agency activities. This question has been raised in relation to Section C below, regarding who performs the clearinghouse functions.

### **B. Possible functions of a clearinghouse**

1. Collect, develop and analyze baseline data on existing conditions, particularly in terms of groundwater levels and quality, groundwater recharge rates, groundwater - surface water relationships, and streamflow accretion and depletion rates.
2. Collect data on surface water and groundwater supplies used and available for use, describe the source of such water, the purposes and place of use, and the time or periods of availability.

3. Make all collected data available to the public.
4. Collect information on proposed transfers of all types (except intra-District transfers).
5. Provide public notice on all proposed water transfers and provide a forum (if not otherwise provided) for public discussion and comment on proposed transfers.
6. Provide technical analysis on groundwater - surface water interface. Eventually develop a model on the groundwater - surface relationship in the Central Valley.
7. Provide advice and assistance to local decision makers on technical analysis, environmental impacts and economic impacts. For groundwater transfers, this would include, for example, modeling data on impacts to groundwater or groundwater quality, affects on streamflow accretions and depletion, and estimates of recharge times. For surface water transfers, it might include analysis of water quality impacts and third party economic impacts. This could include financial assistance if funds were available.
8. Provide cumulative impact analysis of transfers on a stream or watershed basis.
9. Provide recommendations to decision makers on ways to avoid, minimize or mitigate environmental or economic impacts.
10. Develop and administer monitoring programs to determine impacts of transfers on groundwater conditions, water quality, agricultural production, environmental conditions, etc.
11. The clearinghouse could also provide, upon request by the local decision makers, advice or recommendations on the level of analysis desirable or useful for different types or priorities of transfers. Expertise housed within the clearinghouse may be available (perhaps on a contract basis) to provide assistance to local interests with understanding the analysis results.

### **C. Who performs the clearinghouse functions?**

Conceptually the clearinghouse can be thought of as an institution or entity which performs clearinghouse functions. This could mean that an existing agency performs these functions or that a new entity is created specifically for their performance. Another way of thinking about the clearinghouse is that it is a process which is performed by one or more existing agencies as part of whatever role they currently have in the water transfer process. Still another concept is that the clearinghouse is an institution or entity which merely ensures that someone else actually performs the appropriate functions.

A related issue is the geographic scope of the clearinghouse function. The clearinghouse could

operate on a local or regional basis (river or watershed), or it could operate on a statewide basis, on something in between. Based on the discussions thus far in the Work Group, there appears to be some support for the idea that there would be one clearinghouse entity whose scope would be at least that of the Central Valley and possibly statewide.

Four possible scenarios are described below:

1. One of the concerns repeatedly expressed by some stakeholders is that DWR and USBR could not function effectively as a clearinghouse due to their obligations to their contractors. While some have expressed reluctance at the idea of increasing the scope of the State Water Resources Control Board jurisdiction, it may be logical for the State Board to assume the responsibility for these functions. This would NOT necessarily mean any expansion of the Boards' water rights permitting authority. The State Board could collect, analyze and disseminate information and advice regarding transfers of all types, without assuming any regulatory jurisdiction over transfers beyond that which it has now.
2. Another possibility is the formation of a joint powers authority of local district and counties in source water areas. A joint powers authority (JPA) is the voluntary association of agencies with a delegation of power to the JPA to perform certain agreed upon tasks or functions.
3. Another possibility is that the clearinghouse function could be performed by a non-governmental entity, such as the University of California, or a specially formed private, not for profit corporation, or by a "neutral" agency, such as the Natural Resources Conservation Service (NRCS). Local agencies could contract with this entity for its services.
4. Another possibility is that the clearinghouse functions are performed by local agencies, without formation of a new entity or a state agency. In this scenario, the clearinghouse functions are simply incorporated into the existing review, analysis and approval processes of the agencies (water districts and/or counties) which have decision making authority with regard to a specific transfer.

#### **D. Tentative proposal**

For purpose of further discussions, the Work Group is considering the following scenario:

As part of the CALFED legislative package, CALFED would recommend legislation to create the California Water Transfers Clearinghouse.

The Clearinghouse administrative function would be housed in the State Water Resources Control Board, but not within the Division of Water Rights. The State Board would contract the technical work, such as data collection and analysis and groundwater-surface water modeling. Contracts could be established with the University of California and/or the

Natural Resources Conservation Service and/or the U.S. Geological Survey and/or another neutral party with appropriate expertise.

The legislation would require that the proponents of a water transfer meeting specified criteria would give notice at a specified time to the Clearinghouse. The notice would include specified information about the proposed transfer. The Clearinghouse would then be responsible for ensuring that the notice of a proposed transfer was provided to all interested parties and that public process requirements were satisfied.

The Clearinghouse technical function would provide baseline data to the transfer proponents, responsible decision making agencies and to the public, for use in the environmental analysis of the proposed transfer. The Clearinghouse could also provide economic impact assessment and cumulative impact assessment.

If required by decision making agencies, the Clearinghouse could also provide recommendations on conditions or mitigation measures for the proposed transfer and/or advice regarding ways to get additional environmental or water quality benefits from the proposed transfer.

#### **E. Funding options**

1. Initially, funding would have to be provided by the State, as part of the CALFED program budget.
2. For long term funding, one option is that a surcharge could be added to transfers to cover the expense of clearinghouse operations and administration (i.e, buyers or sellers of transferred water would pay).
3. Alternatively, long term funding could be provided through a broader based revenue sources, such as annual state appropriations or bond revenues or a general water use fee imposed and collected by the State Board.

#### **F. Criteria for Transfers to be Submitted to Clearinghouse**

(To be discussed and developed in conjunction with the BDAC Water Transfer Work Group.)  
(Intended to answer such questions as: Which transfers are subject to this process and which may be exempt?)

#### **G. Assurances for the Use of the Clearinghouse**

(To be discussed and developed in conjunction with the BDAC Water Transfer Work Group.)